

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	Chapter 11
THE IT GROUP, INC., et al.,	Case No. 02-10118 (MFW)
Debtors.	Jointly Administered
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IT LITIGATION TRUST,	
Plaintiff,	
v.	Civil Action No. 04-1268-KAJ
DANIEL A. D'ANIELLO, et al.,	
Defendants.	

**ORDER**

At Wilmington this **20<sup>th</sup>** day of **June, 2006**.

A telephonic conference was held in the above captioned matter and related matters *Thomas L. Payne, et al. v. Anthony J. DeLuca, et al.*, U. S. District Court, West District of Pennsylvania, C.A. No. 02-1927; *Howard G. Clair, et al. v. Anthony J. DeLuca, et al.*, U.S. District Court, Western District of Pennsylvania, C.A. No. 0288; *Staro Asset Management, LLC v. Anthony J. DeLuca, et al.*, U.S. District Court, Western District of Pennsylvania, C.A. No. 02-0886; *Highland Capital Mgmt, L.P., et al. v. TC Group, et al.*, Delaware Superior Ct. No. 04C-06-068-RRC; *Highland Capital Mgmt., L.P., et al. v. Ernst & Young, et al.*, Dis. Ct. Tx, C. A. No. 03-04530; and *Federal Insurance Co. v. D'Aniello*, U.S. District Court, Western District of PA, C. A. No.

05-0305 with counsel on behalf of the parties in attendance. The purpose of the teleconference was to determine the interest in mediating some or all of these matters, particularly since the defendants are the same in each case. As a result of discussions with counsel and due to the procedural status of the various cases,

IT IS ORDERED that:

1. Mediation has been tentatively set in these matters beginning

**Tuesday, August 22, 2006 at 9:00 a.m. and continuing to Thursday, August 24, 2006, if appropriate.**

2. A telephonic conference is scheduled for **Tuesday, August 1,**

**2006 at 5:00 p.m. EST. Counsel for plaintiff in the IT Litigation Trust matter shall initiate this teleconference.** The purpose of the teleconference is to confirm the settlement status of the various matters, to determine which cases, if any, will be mediated in August 2006, and the attendance of decisions makers and the mechanics of the mediation. Counsel for plaintiffs in the related cases and counsel for defendants shall advise plaintiff's counsel in the IT Litigation Trust matter no later than **Thursday, July 27, 2006**, who on behalf of their respective clients, will be participating in the August 1, 2006 teleconference. Plaintiff's counsel in the IT Litigation Trust matter shall fax or email the Magistrate Judge a list of the participants prior to the scheduled teleconference.

3. Since the related cases involve matters in other jurisdictions,

Richard Wayne, Esquire or Thomas Glass, Esquire shall provide a copy of this Order to counsel in the related cases.

4. Between June 19 and August 1, 2006, opposing counsel shall

discuss with each other settlement proposals and concepts and shall be prepared to discuss the prospects of settlement during the August 1, 2006 teleconference.

5. Should the mediation proceed, the submissions shall be due on or before **Friday, August 11, 2006**. Except for the Federal Insurance matter, a joint statement from plaintiffs in the remaining cases shall be limited to **twenty (20) pages**, with each group of plaintiffs allowed an additional **five (5) page** submission. The joint statement from the defendants in all cases shall be limited to **twenty (20) pages**, with each group of defendants allowed an additional **five (5) page** submission.

6. The insurers, except AIG, in the Federal Insurance matter shall be limited to a **ten (10) page** joint submission, with **three (3)** additional pages each for confidential matters. AIG shall be limited to a **five (5) page** submission.

7. All mediation submissions shall be **double-spaced, 12 pt. font**. The mediation statements are confidential and shall not be exchanged among the parties and shall not be filed or efiled with the Clerk's Office, but **the original and one (1) copy shall be delivered to the Clerk's Office in an enveloped addressed to Judge Thyngé marked "Confidential Mediation Statement."**

8. The submissions shall include:

- a. The status of settlement negotiations, suggestions or concepts for settlement, and the party's understanding why settlement has not been reached, and how the Court may assist the parties in reaching a resolution.
- b. The identity of counsel and representatives of the parties who will attend the mediation.
- c. Attorneys' fees and costs to date and projected or future fees

and costs, including expert fees, through trial.

8. Counsel for the insurers shall advise AIG of this Order and confirm whether AIG intends to participate in mediation. The Court would prefer AIG's participation in the August 1, 2006 teleconference.

9. No communication with the Magistrate Judge shall be efiled in this court or any court. Communication shall be by telephone, email or fax. Any communication sent by fax need not be followed by an original.

Local counsel are reminded of their obligations to inform out-of-state counsel of this Order. To avoid the imposition of sanctions, counsel shall advise the Court immediately of any problems regarding compliance with this Order.

/s/ Mary Pat Thyng  
UNITED STATES MAGISTRATE JUDGE